

No: 9/5/84-6Lab./9831.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of Haryana Roadways, Bhiwani.

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 116 of 82

between

SHRI GOBIND RAM, WORKMAN AND THE MANAGEMENT OF HARYANA ROADWAYS,
BHIWANI

Shri S.S. Gupta A.R., for the workman.

Shri Vijay Vir Singh, A.R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Gobind Ram and the management of Haryana Roadways, Bhiwani, to this Court, for adjudication,—*vide* Haryana Government Gazette Notification No. 1D/HSR/97/82/26850 dated 14th June, 1982:

Whether the termination of service of Shri Gobind Ram was justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the workman is that he was employed with the respondent for the last about 9 years and all through his work and conduct has been satisfactory and the respondent,—*vide* his order dated 5th June, 1981 choose to terminate his services unlawfully and that the said order of termination was passed in gross violation of the provisions of the Industrial Disputes Act, 1947 and flouted all principles of natural justice.

3. In the reply filed by the respondent, preliminary objections taken are that the respondent has lost confidence in the workman, whose services were terminated after a fair and proper enquiry and that the reference is bad in law under section 2 (j) of the Industrial Disputes Act, 1947. On merits, it is admitted that the petitioner has been working as a Conductor for the last about 9 years and that the order of termination is unlawful and illegal and passed after a valid and proper domestic enquiry, in which, the workman was given full opportunity of participation.

4. On the pleadings of the parties, the following issues were settled for decision on 23rd February, 1983:

1. Whether the enquiry conducted by the management is fair and proper? OPM
2. Whether the termination of services of Shri Gobind Ram was justified and in order? If not, to what relief is he entitled?
3. Whether the workman is covered under section 2 of the Industrial Disputes Act, 1947?

5. The management examined MW-1 Shri Jagbir Singh, Law Officer, MW-2 Shri Jagmal Singh, clerk and the workman appeared as his own witness as WW-1.

6. Learned Authorised Representatives of the parties heard.

Issue No. 1 :

7. There is no difficulty in answering this issue in favour of the respondent, because the learned Authorised Representative of the workman has made a statement in the Court that he has nothing to argue on this issue.

Issue No. 3 :

8. This issue is not happily worded, because the plea of the management is that the present dispute is not covered under section 2-A of the Industrial Disputes Act, 1947. Even in the present form, this point was not pressed on behalf of the respondent.

Issue No. 2:

9. Since the workman has not chosen to challenge the vires of the enquiry proceedings, question which survives for consideration is as to whether any interference in the order of punishment is called for by this Court under section 11-A of the Industrial Disputes Act, 1947. The same cannot be discussed without a brief reference to the allegations against the workman. Originally allegations against the workman were that on 11th August, 1980 bus No. 1895 of which the workman was a Conductor was bound for Haridwar to Bhiwani. Checking of the bus was done at a distance of two kilometers from Panipat to Gohana side. Eight passengers were found travelling without tickets from Haridwar to Dobh and from each passenger the workman had charged a sum of Rs. 18.15 and had issued tickets upto Panipat only and thereby embezzled bus fare from Panipat to Dobh. Similarly the Conductor had charged full fare from Haridwar to Dobh from another passenger and had not issued him any ticket. The explanation of the workman during the enquiry proceedings was that he had issued tickets upto Panipat, because there was no stoppage of the bus at village Dobh and that he had not charged fare from the passengers beyond Panipat and had charged fare from them upto Panipat only and that the passengers choose to change their mind and remained in the bus beyond Panipat also and as he was asking the passengers to purchase tickets, checking of the bus was made. Explanation of the Conductor was found to be tenable by the Enquiry Officer, so he was exonerated of the charges qua these eight passengers but the Enquiry Officer held that the Conductor had embezzled a sum of Rs. 18.15, which he had charged from another passenger also travelling from Haridwar to Dobh. In my opinion, these findings of the Enquiry Officer are not free from suspicion. The workman has given details of the tickets issued to the nine passengers in his reply to the show-cause notice, copy of which is Ex. MW-2/2. There is no mention of this clarification given by the workman in the order of termination passed by the General Manager. At best, even if, for the sake of arguments, it be believed that the workman had embezzled a sum of Rs. 18.15 fare from Haridwar to Dobh, for this petty offence he cannot be awarded harsh punishment of termination, because in this era of economic hardship, depriving a workman from his bread and butter for some illusory mis-conduct is not justified. So, interference by this Court under section 11-A is called for and as such, order of termination is set aside and the workman is ordered to be reinstated. The benefits of back wages cannot be denied to the workman, because he choose to raise the demand notice within 24 days of his termination. Termination order is dated 5th June, 1981 and the demand notice received alongwith the order of reference is dated 29th June, 1981. So, the workman is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly. There is no order as to cost.

Dated the 24th October, 1985

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.

Endst. No. 116-82/1780, dated 5th November, 1985.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.

No. 9/5/84-6Lab./ 9872.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the Workman and the management of Haryana Roadways, Hissar:

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 119 of 82

between

SHRI BHALLE RAM, WORKMAN AND THE MANAGEMENT OF HARYANA ROADWAYS,
HISSAR

Shri S.S. Gupta, A.R. for the workman.

Shri Jagbir Singh, A.R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub section (4) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Bhalle Ram and the management of Haryana Roadways, Hissar, to this Court, for adjudication, *vide Haryana Government Gazette Notification No. ID/HSR/106/81/26889*, dated 14th June, 1982:—

Whether the termination of services of Shri Bhalle Ram was justified and in order. If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the workman is that he was working with the respondent as a Conductor since 17th January, 1976 and all through his work and conduct has been satisfactory and that the respondent choose to terminate his services unlawfully w.e.f. 9th December, 1980 by passing an order, which was illegal and unjustified and a farce of an enquiry was held by an official biased against the workman, so, he has prayed for reinstatement with continuity of service and full back wages.

3. In the reply filed by the respondent, preliminary objections taken are that the reference is bad in law and that the respondent is not an "industry" as defined in section 2 (J) of the Industrial Disputes Act, 1947 and that since the dismissal of the petitioner was ordered after proper domestic enquiry, in which, petitioner was given full opportunity of participation, an order of termination passed cannot be held to be illegal and unjustified.

4. On the pleadings of the parties the following issues were settled for decision on 8th February, 1983:—

1. Whether the enquiry conducted by the management is fair and proper, If so, to what effect?
2. Whether the termination of services of Shri Bhalle Ram was justified and in order? If not, to what relief is he entitled?

5. The management examined MW-1 Shri Ramesh Chander, Clerk, MW-2 Shri Bhim Sain, retired Superintendent and the workman appeared himself as WW-1

6. Authorised Representatives of the parties heard.

7. The learned Authorised Representative of the petitioner rightly contended that the procedure adopted by the Enquiry Officer was illegal, in which, he flouted the principles of natural justice, because his conduct was more of a prosecutor than a Judge, as it was he who led the sole prosecution witnesses in his examination and it was he who put questions to the witnesses examined by the petitioner in his defence. The management has placed on record entire enquiry proceedings file and I have gone through the same. Most of the contentions raised by Shri Gupta, learned Authorised Representative of the workman are well founded. Even the Enquiry Officer Shri Bhim Sen-Bhatia admits that it was he who led the witnesses of the prosecution in his examination-in-chief. He further admitted that when the witnesses of the petitioner were examined, none was present on behalf of the department. The only inference possible is that Shri Bhatia choose to play the role of the prosecutor rather than an Enquiry Officer. This Court is aware of the legal position that an Enquiry Officer is usually a layman not well versed in the legal procedure and sophisticated rules of evidence are not applicable, but at the same time the Enquiry Officer has to follow the principles of natural justice in which, delinquent official is given a fair chance of participation and the conduct of the Enquiry Officer should be above-board. Under these circumstances, procedure adopted by the Enquiry Officer was absolutely illegal and as such enquiry held in this case was not proper and valid. So, this issue is answered in favour of the workman.

8. Normally the management is afforded opportunity to lead evidence on merits regarding allegations against the delinquent official, but in the present case, no such right has been reserved by the management and this Court cannot *suo-moto* grant opportunity to the management in that behalf.

Issue No. 2.

9. The allegations against the workman are that he collected a sum of Rs. 16.45 from five passengers travelling from Hissar to Mirzapur and nine passengers also travelling from Hissar to Nayana. Since the enquiry has not been held to be proper and valid and even if, it be believed that the official has mis-conducted himself by collecting fare from the passengers and not issuing them tickets, even then, his alleged mis-conduct is so insignificant that the harsh punishment of dismissal should not have been awarded to him. There is nothing on the file that the previous work and conduct of the workman was shady and so, interference by this Court under section 11-A of the Industrial Disputes Act, 1947, is called for on the question of punishment. In the present set up, when the employment opportunities are shrinking, to deprive a poor workman from his employment shall be very harsh punishment, specially when he has alleged to be guilty of committing a fraud of less than Rs. 17 only. So, the workman is ordered to be reinstated. The demand notice is dated 20th June, 1981. Services of the workman were terminated on 9th December, 1980, so, there was time lag of 1½ years in raising the demand notice. The

delay for more than three years has been usually frowned upon by the Courts. So, there is no question of depriving the workman from the back wages. So, his reinstatement is ordered with continuity of service and full back wages. The reference is answered and returned accordingly. There is no order as to cost.

Dated 21st October, 1985

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.

Endst. No. 119-82/1781, dated 5th November, 1985

Forwarded (four copies) to the Secretary to Government Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.

No. 9/5/84-6Lab./9873. --In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the Workman and the management of Indo Australian Cattle Breeding Project, Hissar.

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference Nos. 6, 7 & 8 of 85.

between

S/SHRI ATMA RAM, RASIA AND KRISHAN WORKMEN AND THE MANAGEMENT OF M/S
INDO AUSTRALIAN CATTLE BREEDING PROJECT, HISSAR

Shri T.C. Gupta, A.R. for the workmen.

Shri Avinash Chander, A.D.A., for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workmen S/Shri Atma Ram, Rasia and Krishan and the management of M/s Indo Australian Cattle Breeding Project, Hissar, to this Court, for adjudication,—*vide* Haryana Government Gazette Notification No. 892-96, dated 8th January, 1985; 898-902, dated 8th January, 1985 and 1196-1200, dated 11th January, 1985:—

Whether the termination of services of S/Shri Atma Ram, Rasia and Krishan was justified and in order? If not, to what relief are they entitled?

2. On receipt of the order of references, notices were issued to the parties. Both the parties appeared. These references bearing No. 6, 7 and 8 all of the year 1985 were ordered to be consolidated,—*vide* my order, dated 27th September, 1985. I, further directed that the proceedings shall be recorded in reference No. 6 of 85.

3. Otherwise the case of the workman Shri Atma Ram is that he was working with the respondent for the last about 9 years as a Chowkidar on monthly wages of Rs. 420 and that the management terminated his services on 28th April, 1984 without complying with the provisions of section 25F of the Industrial Disputes Act, 1947. Similarly the case of Shri Rasia is that he was working with the respondent since 1971 as a Chowkidar on monthly wages of Rs. 420 and the respondent chose to terminate his services w.e.f. 28th May, 1984 in flagrant disregard of the provisions of the Industrial Disputes Act, 1947. The claim of 3rd workman Shri Krishan is also on the same pattern except that he was working with the respondent for the last about seven years.

4. Separate replies were filed by the respondent but the refrain of the same is that the petitioners were engaged as casual labourers as per daily requirements of the work force in the respondent project and that they were discharged from the labour force as there was no work. Further the respondent has given a data of the number of days worked by the petitioners with the respondent. *inter alia* it is pleaded that since the petitioners were not in continuous employment of the respondent, so, the provisions of section 25F of the Industrial Disputes Act are not attracted in this case.

5. On the pleadings of the parties, the following issue is framed by me on 23rd April, 1985:—

1. Whether the termination of services of S/Shri Atma Ram, Rasia and Krishan was justified and in order ? If not, to what relief are they entitled ?
6. Since the issues framed in all the three references are the same, the same need not be detailed separately.
7. All the three workmen appeared as WW-1, WW-2 and WW-3. The management examined one witness Shri Kanshi Ram, Assistant in the office of the Project Director, Indo Australian Cattle Breeding Project, Hissar.

8. Heard.

9. The stand taken by the respondent during the course of adducing evidence is contrary to the stand taken by them in the reply filed in the Court. Now, it is sought to be proved from the statement of Shri Kanshi Ram, Assistant that the petitioners quarrelled on 27th May, 1984 with another daily wager of the Project, who filed complaint with the Project Director. The case was sent to the police and from 28th May, 1984 the petitioners did not turn up for their duties. Shri Kanshi Ram further stated that on 11th June, 1984 there was some compromise between the complainant and the petitioners in the police station Saddar, Hissar and the petitioners collected their wages for the month of May, 1984. He further stated that on the demand raised by the petitioners, conciliation proceedings took place before the Labour-cum-Conciliation Officer, Hisar, before whom, petitioners refused to give an undertaking of good behaviour in future.

10. As already observed, in the reply filed in the Court, the stand taken by the respondent is that since there was no adequate work so services of the petitioners were discharged and since they were casual workers, there was no necessity of issuing of charge-sheet to them. The definition of the term "workman" as given in section 2S. of the Industrial Disputes Act, 1947, is all embracing. It does not make any distinction between the casual worker and apprentice or a daily wager. So, their termination should have been within the four corners of the provisions of section 25F, because their termination falls squarely within the ambit of term "retrenchment" as given in section 2(oo) of the said Act, because all the three petitioners had definitely worked for more than 240 days with the respondent during the last 12 calendar months from the date of their alleged discharge. So, the respondent could not have discharged the petitioners without complying the provisions of section 25F of the Industrial Disputes Act, 1947 and so, the petitioners are ordered to be reinstated with continuity of service and full back wages. Full back wages have been awarded, because the demand notices were raised by the petitioners within less than two months of their alleged termination. The demand notices in all the three cases are dated 8th July, 1984. The reference is answered and returned accordingly. There is no order as to cost. A copy of this award be placed upon each reference No. 7 and 8 of 1985.

B. P. JINDAL,

Dated the 17th October, 1985.

Presiding Officer,
Labour Court, Rohtak,
Camp Court, Hissar.

Endst. No. 6-7-8/85/1782, dated the 5th November, 1985.

Forwarded (four copies) to the Secretary to Government Haryana Labour & Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Hissar.

No. 9/5/84-6Lab/9874.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s (i) Haryana Agriculture University, Hissar (ii) Professor and Head of Department of Agriculture Economics, Haryana Agriculture University, Hissar.

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK
Reference No. 271 of 1984

between
SHRI SAHIB RAM, WORKMAN AND THE MANAGEMENT OF HARYANA AGRICULTURE UNIVERSITY, HISSAR, (ii) PROFESSOR AND HEAD OF THE DEPARTMENT OF AGRICULTURE ECONOMICS, HARYANA AGRICULTURE UNIVERSITY,
HISSAR

Shri Ranbir Singh, A.R. for the workman.
Shri B.D. Mehta, A.R. for the respondent.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Sahib Ram and the management of M/s. Haryana Agriculture University, Hissar, (ii) Professor and Head of the Department of Agriculture Economics, Haryana Agriculture University, Hissar, to this Court, for adjudication,—*vide* Haryana Government Gazette Notification No. 42239-44 dated 27th November, 1984 :—

Whether the termination of services of Shri Sahib Ram is justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference notices were issued to the parties. The parties appeared. The case of the workman is that he was employed with the respondent as a Agriculture Inspector since 10th May, 1979 and that his recruitment was made by the respondent finding him to be fully qualified for the job, but his services were terminated all of a sudden with effect from 30th June, 1981 and all through his work and conduct remained satisfactory.

3. In the reply filed by the respondent, it is alleged that the respondent is not an "industry" and that the petitioner remained gainfully employed after his termination and that since the appointment of the petitioner was for a fixed tenure, so there was no question of the respondent terminating the services of the petitioner. The respondent simply did not extend the tenure of employment of the workman.

4. On the pleadings of the parties, the following issues were settled for decision by me on 26th March, 1985 :—

- (1) Whether the respondent is not an "industry" as defined in section 2(J) of the Industrial Disputes Act, 1947 ?
- (2) Whether the applicant remained gainfully employed after his alleged termination ?
- (3) Whether the termination of services of Shri Sahib Ram is justified and in order ? If not, to what relief is he entitled ?

5. The petitioner himself appeared as WW-1 and the respondent examined MW-1 Shri S.P. Verma, Assistant.

6. Heard.

Issue No. 1 :

7. The learned Authorised Representative of the respondent orally conceded that he has nothing to say on this issue, because the respondent University squarely falls within the term "industry" as defined in section 2(J) of the Industrial Disputes Act, 1947.

Issue No. 2 :

8. On this issue, there is not an *iota* of evidence on behalf of the respondent that the petitioner remained gainfully employed after his alleged termination.

Issue No. 3 :

9. The Learned Authorised Representative of the respondent Shri Mehta contended that the case of the petitioner falls within the scope of sub-clause (bb) of clause 2(00) of the Industrial Disputes Act, 1947 and as such, his alleged termination does not fall within the ambit of term "retrenchment" as defined in the said section. His contention was that since the tenure of the employment of the petitioner was for a fixed period and the same was not renewed after 30th June, 1984, the petitioner can have no grouse and the order of the respondent falls within the exception provided under section 2(00) of the Industrial Disputes Act, 1947. In my opinion, this contention is without any force. In contract there are always two parties. In the orders of extension,—*vide* which, tenure of the employment of the petitioner was extended in dribs and drabs by the respondent, the petitioner was not a party. Rather this practice of extending tenure of employment in dribs and drabs is an unfair labour practice and deserves condemnation in the strongest possible terms. Such a practice on the part of any employer keeps an employee on tenterhooks, who is not in a position to put in his best in the job, because of the uncertainty of his future. Such practice has been condemned by the Court on numerous occasions. There is no denying the fact that the petitioner remained employed with the respondent for more than 240 days during the last twelve calendar months from the date of his termination. Rather, he has been in the employment of the respondent right from the date he was appointed i.e. 10th May, 1979. So, by not extending the term of employment of the petitioner the respondent in a way allowed his term of employment to expire and this act of the respondent squarely falls within

the ambit of term "retrenchment", which has been given widest amplitude by the Courts. In that behalf, reference can be made to 1984 (I) LLN 230 between Karnataka State Road Transport Corporation Bangalore and M. Baraith and others. Under these circumstances, the petitioner is ordered to be reinstated with continuity of service along with all previous benefits and full back wages, because the demand notice was raised by the workman within slightly more than three months of his termination. The reference is answered and returned accordingly. There is no order as to cost.

B.P. JINDAL

Dated the 17th October, 1985.

Presiding Officer,
Labour Court, Rohtak,
Camp Court, Hissar.

Endorsement No. 271-84/1783, dated the 5th November, 1985.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Hissar.

No. 9/5/84-6Lab/9875.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. Bahadurgarh Primary Co-operative Agriculture Development Bank Ltd., Bahadurgarh (Rohtak) :—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT,
ROHTAK

Reference No. 121 of 1984

between

SHRI SURENDER SINGH, WORKMAN AND THE MANAGEMENT OF M/S BAHADURGARH PRIMARY CO-OPERATIVE AGRICULTURE DEVELOPMENT BANK LTD., BAHADURGARH (ROHTAK)

Shri Dhan Singh, A. R. for the workman.

Shri Ishwar Singh, A. R. for the management:

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Surender Singh and the management of M/s Bahadurgarh Primary Co-operative Agriculture Development Bank Ltd. Bahadurgarh (Rohtak), to this Court, for adjudication,—*vide* Haryana Government Gazette Notification No. 26958—63, dated 30th July, 1984 :—

Whether the termination of services of Shri Surender Singh, is justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was appointed as Peon-cum-Chowkidar with the respondent on 29th July, 1983 and that his services were unlawfully terminated by the respondent on 8th March, 1984 and in his place one Shri Zile Singh was recruited on 11th April, 1984. So it is alleged that the action of the respondent in terminating his services was unlawful. He has prayed for reinstatement with continuity of service and full back wages.

3. In the reply filed by the respondent, employment of the petitioner as alleged is admitted but it is asserted that his services were terminated as no longer required. It is denied that one Shri Zile Singh was appointed in place of the petitioner. It is further alleged that the petitioner had not completed 240 days of actual work with the respondent and as such, provisions of section 25F of the Industrial Disputes Act, 1947 are not attracted.

4. On the pleadings of the parties, the following issue was settled for decision by me on 1st February, 1985:—

1. Whether the termination of services of Shri Surender Singh is justified and in order? If not, to what relief is he entitled?

5. The petitioner appeared as WW-1 and the respondent examined MW-1 Shri R. C. Dhaka, Manager.
6. Authorised Representatives of the parties heard.

Issue No. 1 :

7. As per his own showing and allegations, the petitioner was employed on 28th July, 1983 and he actually joined his duties on 1st August, 1983. His services were terminated on 8th March, 1984. Even, if days of all these months are counted as actual days worked by the petitioner, even then, the petitioner had put in 220 days of work with the respondent. The petitioner can avail of the provisions of section 25F of the Industrial Disputes Act 1947, only in case, he has actually worked for 240 days with the respondent. So, the said provisions are not attracted in this case and as such, his termination cannot be held to be retrenchment as defined in section 2(oo) of the Industrial Disputes Act, 1947, and as such, the petitioner has no right to seek reinstatement as alleged. The reference is answered and returned accordingly. There is no order as to cost.

B. P. JINDAL,

Dated, the 29th October, 1985.

Presiding Officer,
Labour Court, Rohtak.

Endst. No. 121-84/1784, dated the 5th November, 1985.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

No. 9/5/84-6Lab./9876.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the Workman and the management of M/S Managing Director, Haryana State Minor Irrigation Tubewell Corporation, Chandigarh, (ii) X-en, Haryana State Minor Irrigation Tubewell Corporation, Division No. 1, Fatehabad :—

BEFORE SHRI B. P. JINDAL PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 152 of 84.

Between

SHRI VED PARKASH WORKMAN AND THE MANAGEMENT OF M/S. MANAGING DIRECTOR, HARYANA STATE MINOR IRRIGATION TUBEWELL CORPORATION, CHANDIGARH (II) X-EN, HARYANA STATE MINOR IRRIGATION TUBEWELL CORPORATION, DIVISION NO. 1, FATEHABD

Present :—

Shri T.C. Gupta, A.R. for the workman.

Shri Dula Ram, S.D.C. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Ved Parkash and the management of M/s. Managing Director, Haryana State Minor Irrigation Tubewell Corporation, Chandigarh (ii) X-en, Haryana State Minor Irrigation Tubewell Corporation, Division No. 1, Fatehabad, to this Court, for adjudication, *vide Haryana Government Gazette*, Notification No. 32700—05, dated 30th August, 1984 :—

Whether the termination of services of Shri Ved Parkash is justified ad in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a Tubewell Operator and that he worked as such upto 17th June, 1983 and that on 13th June, 1983 a chargesheet was issued to him, to which, he filed a reply and that the respondent without holding any proper domestic enquiry choose to terminate his services unlawfully. So, he has sought reinstatement with continuity of service and full back wages.

3. In the reply filed by the respondent, the claim of the workman has been controverted in toto. It is alleged that the petitioner was placed under suspension for not attending to his duties properly and regularly, resulting in damage to electrical installations at the premises.

4. In the reply details of the acts of negligence committed by the petitioner have been given. It is also alleged that the petitioner is in the habit of remaining absent without leave. It is also alleged that the chargesheet was issued to the petitioner regarding these acts of omissions and commissions and a reply was filed by the petitioner and thereafter a regular enquiry was held and after issuing final show cause notice, his services were terminated. So, it is alleged that the order of termination was legal and justified.

5. On the pleadings of the parties the following issues were settled for decision by me on 30th January, 1985:

1. Whether a valid and domestic enquiry was held by the management before terminating the services of the workman? O.P.R.
2. Whether the termination of services of Shri Ved Parkash is justified and in order? If not, to what relief is he entitled?

6. The management examined Shri C. C. Chabra, S.D.O. and the workman appeared as his own witness as WW-1.

7. Authorised Representatives of the parties heard.

Issue No. 1:

8. To support the plea that a regular domestic enquiry was held regarding the allegations against the petitioner, the management has examined MW-1 Shri C.C. Chabra, S.D.O., who held the domestic enquiry. From his statement it cannot be gathered that any domestic enquiry was held by him. He has simply enumerated the allegations appearing against the petitioner. No speaking enquiry report was submitted by him. He simply wrote a letter dated 2nd May, 1983 to the Superintending Engineer, Tubewell Circle No. 4, Hissar. The same read as under:

"This is brought to your kind notice that the Charge levelled against Shri Ved Parkash Tubewell Operator are justified. Keeping in view the allegations against the Operator disciplinary action may kindly be taken.

This is for your kind information and further action please".

9. Except this letter no findings have been placed by the respondent on the file. The said letter of the S.D.O., concern, who was examined as MW-1 cannot be said to be any findings regarding the allegations against the petitioner, which are of very serious nature. The petitioner has rightly said that no domestic enquiry was held against him, in which, he had been given any opportunity of participation. So, this allegation of the petitioner is well founded. So, there is no difficulty in holding that no valid and proper domestic enquiry was held by the respondent and as such, this issue goes against the respondent.

Issue No. 2:

10. Domestic enquiry against the petitioner has not been held to be proper and valid. Now the question would be as to whether the petitioner deserves the relief of reinstatement. Certain facts stare in this Court straight: The allegations against the petitioner have been elaborated in the reply to the demand notice filed by the respondent. These are of serious nature. A perusal of the same goes to show that not only the petitioner has been guilty of absenteeism, but he has scant regard for Government property. Electrical installation at the Tubewell of which the petitioner was Operator suffered extensive damage because of his negligence, though other senior official cannot escape sharing blame for the same. So, reinstating such an employee would not be in the interest of the administration, because it is difficult to visualise that the petitioner shall try to be careful in future. During his short tenure he has been placed under suspension thrice. It is difficult to believe that senior officials of the respondent can have any animus against the petitioner. So, reinstatement in the present case would not be in public interest, but since his termination has been found to be legal and valid, he deserves for compensation in the lieu of reinstatement for his rehabilitation. So, I award a sum of Rs. 4,000 to the petitioner as compensation to be paid by the respondent and decline him relief of reinstatement. The reference is answered and returned accordingly. There is no order as to cost.

B. P. JINDAL.

Presiding Officer,
Labour Court, Rohtak.

Endst. No. 152-84/1785, dated the 5th November, 1985.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.